

that a subsequent request for reinstatement will not be considered until at least one year after the date of denial, or approving the request consistent with the procedures set forth in § 1001.3003(a).

(c) The decision to deny reinstatement will not be subject to administrative or judicial review.

§ 1001.3005 Reversed or vacated decisions.

(a) An individual or entity will be reinstated into Medicare, Medicaid and other Federal health care programs retroactive to the effective date of the exclusion when such exclusion is based on—

(1) A conviction that is reversed or vacated on appeal;

(2) An action by another agency, such as a State agency or licensing board, that is reversed or vacated on appeal; or

(3) An OIG exclusion action that is reversed or vacated at any stage of an individual's or entity's administrative appeal process.

(b) If an individual or entity is reinstated in accordance with paragraph (a) of this section, CMS and other Federal health care programs will make payment for services covered under such program that were furnished or performed during the period of exclusion.

(c) The OIG will give notice of a reinstatement under this section in accordance with § 1001.3003(a).

(d) An action taken by the OIG under this section will not require any other Federal health care program to reinstate the individual or entity if such program has imposed an exclusion under its own authority.

(e) If an action which results in the retroactive reinstatement of an individual or entity is subsequently overturned, the OIG may reimpose the exclusion for the initial period of time, less the period of time that was served prior to the reinstatement of the individual or entity.

[57 FR 3330, Jan. 29, 1992, as amended at 64 FR 39428, July 22, 1999; 67 FR 11935, Mar. 18, 2002]

PART 1002—PROGRAM INTEGRITY—STATE-INITIATED EXCLUSIONS FROM MEDICAID

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Subpart D—Notification to OIG of State or Local Convictions of Crimes Against Medicaid

1002.230 Notification of State or local convictions of crimes against Medicaid.

AUTHORITY: 42 U.S.C. 1302, 1320a–3, 1320a–5, 1320a–7, 1396(a)(4)(A), 1396(p)(1), 1396a(30), 1396a(39), 1396b(a)(6), 1396b(b)(3), 1396b(i)(2) and 1396b(q).

SOURCE: 57 FR 3343, Jan. 29, 1992, unless otherwise noted.

Subpart A—General Provisions

§ 1002.1 Scope and purpose.

The regulations in this part specify certain bases upon which individuals and entities may, or in some cases must, be excluded from participation in the Medicaid program. These regulations specifically address the authority of State agencies to exclude on their own initiative, regardless of whether the OIG has excluded an individual or entity under part 1001 of this chapter. These regulations also delineate the States' obligation to inform the OIG of certain Medicaid-related convictions.

§ 1002.2 General authority.

(a) In addition to any other authority it may have, a State may exclude an

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individual or entity from participation in the Medicaid program for any reason for which the Secretary could exclude that individual or entity from participation in the Medicare, Medicaid and other Federal health care programs under sections 1128, 1128A or 1866(b)(2) of the Social Security Act.

(b) Nothing contained in this part should be construed to limit a State's own authority to exclude an individual or entity from Medicaid for any reason or period authorized by State law.

[57 FR 3343, Jan. 29, 1992, as amended at 64 FR 39428, July 22, 1999]

§ 1002.3 Disclosure by providers and State Medicaid agencies.

(a) *Information that must be disclosed.* Before the Medicaid agency enters into or renews a provider agreement, or at any time upon written request by the Medicaid agency, the provider must disclose to the Medicaid agency the identity of any person described in § 1001.1001(a)(1) of this chapter.

(b) *Notification to Inspector General.* (1) The Medicaid agency must notify the Inspector General of any disclosures made under paragraph (a) of this section within 20 working days from the date it receives the information.

(2) The agency must promptly notify the Inspector General of any action it takes on the provider's application for participation in the program.

(3) The agency must also promptly notify the Inspector General of any action it takes to limit the ability of an individual or entity to participate in its program, regardless of what such an action is called. This includes, but is not limited to, suspension actions, settlement agreements and situations where an individual or entity voluntarily withdraws from the program to avoid a formal sanction.

(c) *Denial or termination of provider participation.* (1) The Medicaid agency may refuse to enter into or renew an agreement with a provider if any person who has ownership or control interest in the provider, or who is an agent or managing employee of the provider, has been convicted of a criminal offense related to that person's involvement in any program established under Medicare, Medicaid or the title XX Services program.

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(2) The Medicaid agency may refuse to enter into, or terminate, a provider agreement if it determines that the provider did not fully and accurately make any disclosure required under paragraph (a) of this section.

[57 FR 3343, Jan. 29, 1992, as amended at 63 FR 46691, Sept. 2, 1998]

§ 1002.100 State plan requirement.

The plan must provide that the requirements of this subpart are met. However, the provisions of these regulations are minimum requirements. The agency may impose broader sanctions if it has the authority to do so under State law.

Subpart B—Mandatory Exclusion

§ 1002.203 Mandatory exclusion.

(a) The State agency, in order to receive Federal financial participation (FFP), must provide that it will exclude from participation any HMO, or entity furnishing services under a waiver approved under section 1915(b)(1) of the Act, if such organization or entity—

(1) Could be excluded under § 1001.1001 or § 1001.1051 of this chapter, or

(2) Has, directly or indirectly, a substantial contractual relationship with an individual or entity that could be excluded under § 1001.1001 or § 1001.1051 of this chapter.

(b) As used in this section, the term—

Exclude includes the refusal to enter into or renew a participation agreement or the termination of such an agreement.

Substantial contractual relationship is one in which the sanctioned individual described in § 1001.1001 of this chapter has direct or indirect business transactions with the organization or entity that, in any fiscal year, amount to more than \$25,000 or 5 percent of the organization's or entity's total operating expenses, whichever is less. Business transactions include, but are not limited to, contracts, agreements, purchase orders, or leases to obtain services, supplies, equipment, space or salaried employment.

[57 FR 3343, Jan. 29, 1992, as amended at 63 FR 46691, Sept. 2, 1998]